SUPREME COURT, U. S.
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MICHAEL RODAK, JR., CLERK

In The

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1974

DOCKET NO. 73-1753

MOTION FOR REVIEW

TO THE MAINE SUPREME
JUDICIAL COURT

RE: APPEAL FROM DECREE
OF JUDGE OF PROBATE

RE: ESTATE OF JOHN CASSIDY
(313 A.2nd 435, (Me. 1974)

(Attorneys for Respondents)
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(RESPONDENTS)
JOHN F. CASSIDY, III,
BARBARA ANN CASSIDY,
ROSELLE CASSIDY FLYNN,
JOAN CASSIDY STETSON,

APPELLANT (pro se)
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c/o 61 STATE STREET
BANGOR, MAINE (04401)

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OCTOBER TERM 1974

MOTION FOR REVIEW

Respectfully, the petitioner herein requests (under Rule #58, U.S.C.) that this Honorable Court review my Appeal, as intended under U.S.C. Rules #19-30-31, #15(E) and #33(B) as made by Edythe L. Rice Dyer, Appellant (pro se) under U.S.C. Docket #73-1753;- October Term, 1974. (Denial notice received by Appellant Oct. 18, 1974.)

A fundamental Constitutional right exists, to have statutory law performed.

As stated on page 28, of my September 10, 1974 Supplementary Motion, the Supreme Judicial Court of Maine actually admitted in Murray vs Sullivan 158 Me. 98, (at page 100) that:-

"The applicable statute, incorporated by reference into the Cassidy will, is R.S., 1954, Chap. 170, Sec. 1, Subsec. II which provides:

"II. The remainder of which he dies seized, and if no widow or widower, the whole shall descend in equal shares to his children, and to the lawful issue of a deceased child by right of representation."

"OMITTED" NOT PERMITTED BY COURT

"If no child is living at the time of his death, to all his lineal descendants; equally, if all are of the same degree of kindred; if not, according to the right of representation."

USED

Note:-**Mr. Cassidy died March 25, 1918-(not) on June 9, 1961.

In Estate of John Cassidy 313 A. 2nd 435, (1974), the Maine Law Court admits:

(Quote) "This court in Murray vs Sullivan examined, discussed, and determined the LEGAL effect of what John Cassidy said."

"It could give NO HEED to what he (John Cassidy) MIGHT or SHOULD have said."

(My emphasis)
(313 A. 2nd at page 439.)

BUT THIS HAS NOT BEEN DONE. THE QUESTION OF LAW PRESENTED BY A MAINE PROBATE COURT, TO THE MAINE LAW COURT, HAS NOT BEEN ANSWERED;- AS REQUIRED BY THE STATE AND FEDERAL CONSTITUTIONS; AS THE MISSING SENTENCE IN THE "APPLICABLE" STATUTE GRAPHICALLY PROVES,

To deny Docket #73-1753, represents a sad day for the "law of the land."

Frankly, the statutory law, of the State of Maine has been violated. The Judicial Branch of Maine Government has changed the "same manner" of the Maine (intestate) descent statute to do something which the Legislative Branch of Maine Government does NOT provide. **(IT IS ILLEGAL, -quid ab initio;- and "LEGALLY" mallum prohibitum)**

The Maine Law Court, "by-passed" all prior probate (certified) FACTS and original procedural jurisdiction. It created a fictitious DEATH DATE;- to which it forced only HALF of the Maine Legislature's descent statute to be "Applicable."

(Quote) "THE STATUTE MUST BE APPLIED AS THOUGH * * * *death occurred immediately after the death of his last surviving child,"---

Murray vs Sullivan
158 Me. at p. 107.
(179 A. 2nd 307) (1962)

This is how;- the Maine Court said the deceased,- (with a NEW DEATH DATE)---

(Quote) "SHOULD VIEW HIS OWN LINEAL DESCENDANTS."

(158 M. at p. 102.)

Namely, as a NEW CLASS of direct and immediate survivors;- excluding the (2) classes of his "per capita" and "per stirpes" CHILDREN;- four (4) of which LEGALLY survived him, - and one (1), (my mother) "pre-deceased him.

LEGAL classes;- once legally fixed by statutory law, cannot legally lapse.

IN BRIEF:-

THE JUDICIAL BRANCH OF MAINE GOVERNMENT HAS DONE VIOLENCE TO THE MAINE LEGISLATURE'S "APPLICABLE" INTESTATE STATUTE,---BY REFUSING TO:

(Quote) "PERMIT" (*) THE FIRST SENTENCE TO APPLY.

(*) "PERMIT"=Murray vs Sullivan 158 Me. at p. 107.

However, regardless of everything; a valid final probate decree and distribution of this estate is LEGALLY impossible (and unconstitutional) until both sentences of the Maine intestate statute are "permitted" to operate. (OR, "actual" intestacy exists.)

I have a "legal" right to claim that share of my grandfather's estate, which the Maine Legislature "legally" permits (and requires) me to claim as a claimant, "per stirpes," by legal right of REPRESENTATION. *(I have no other legal alternative, or remedy.)

I am being legally forced to be a "per capita" claimant (because Mr. Cassidy "judicially" died on June 9, 1961;---instead of when he actually died on March 25, 1918. This VIOLENCE is not true. It is contrary to intestate laws of the State of Maine;---and contrary to "due process" and "equal protection" under the State and Federal Constitutions.

I fully realize that the Supreme Court has a very busy docket, and that my case is not of great national consequence. However, (by example) if statutory law no longer has meaning;- if one branch of government can by-pass another branch;---JUSTICE and LAW, in this country will not long survive.

All I really wanted the U.S. Court to do, was to REMAND the CASE back to the Maine Law Court; with instructions to permit both sentences of the:- "APPLICABLE" statute to operate.

The Maine Law Court is duty bound, to;---"tell it like it is;"---not,- as the Law Court presumes Mr. Cassidy

(Quote) "SHOULD",---HAVE SAID.

OBVIOUSLY:- (It could give "NO HEED" to what he "SHOULD" have said)

(313 A. 2nd at p. 439.)

Karl Menninger's recent book,- (What Ever Became of Sin?"-plainly proves that it is not necessary, to "prove" what was wrong,---when it becomes obvious.

The "judicial fire escape," relied upon by the Maine Court and labeled "res judicata" is useless; when that which is wrong, is obvious. A murderer is quickly releaved from jail (sans, res judicata) when he is obviously innocent.

Please see my May 4th, 1974
Brief to U.S.C. at p.# 51
* (The Court had no allowable
jurisdiction to create
a new death date as a probated fact.)

It is obvious, that half of the applicable (Maine intestate) statute is missing. WHY?. . .I want it "told like it is---."

A $300,000.00 accomplishment fee, was paid to the opponent attorneys. Please see pages #34-35 of my May 4, 1974 Brief to the U.S. Supreme Court.

(Walker vs Flynn, Docket
#6484 Penobscot County
Superior Court (1966)

It may not be unlawful to make,- or take, a $300,000.00 accomplishment fee;- if nobody can prove what it was supposed to accomplish;- *in addition to all standard fees and charges. which all parties AGREED were to be paid by the Probate Court. However, the accomplishment fee- was unknown to the Probate Court and the other parties who entered into the Agreed Statement.

All I can prove is that half of the (Quote) "Applicable,"--Maine intestate statute IS MISSING;- and I refuse to play the game until the whole "APPLICABLE" statute,---IS APPLICABLE. (There can be no other "legal" alternative,---or valid probate remedy.)

By denying my ("probate") Appeal for a VALID FINAL DISTRIBUTION OF THIS ESTATE;---the Supreme Court of the United States is (in essence) allowing injustice to go unnoticed, and in effect condones it.

For the record, I, my heirs, and assigns, continue to be aggrieved; because my Constitutional questions have not been answered, and justice has not been done.

In the Atlantic Digest (Me. Ed., Oct. 12, 1974) at p. 646, (8-9)---the Rhode Island Supreme Court advised:-

(Quote) We recognize that what is for the public good---the General Assembly is vested with a large discretion;- that its determinations are entitled to full consideration; and that COURTS ARE NOT warranted in setting aside such an enactment unless it is clearly evasive of, or contrary to constitutional prohibitions.

* * *

IF THE MAINE INTESTATE STATUTE MUST BE APPLIED,- HOW CAN ONE SENTENCE, (and one "class") BE "LEGALLY" SET-ASIDE..? * * *

The fact finding power of the original Probate Court, once having established the certified FACTS,- as presented to the Law Court,- (and applicable to the applicable descent statute) MUST STAND, or be remanded back to the lower court for "applicable" FACTS:---with a right to appeal, in a probate court.

A jurisdictional step is missing. A procedural LEGAL nullity exists. REGULATION by the Supreme Court is required.

The identification of a TRUE FACT and the mandate of a fundamental statutory right, is explicitly guaranteed by the U.S. Constitution (Amend. 14)--- A clear, well defined "legal" right is mine to claim under MANDAMUS and EXTRAORDINARY WRIT.

(A denial, is not appropriate.)

This motion is intended to be strictly a legal matter, with malace toward no one;- made in good faith and not for delay.

I therefore, respectfully request that these matters (by legal right) be Reviewed by this Honorable Court, so that JUSTICE may be done.

Respectfully Submitted,

Edythe L. R. Dyer
c/o 61 State Street
Bangor, Maine (04401)
(pro se)

SUPREME COURT OF THE UNITED STATES

OFFICE OF THE CLERK

WASHINGTON, D.C. 20543

October 15, 1974

Mrs. Edythe L. Rice Dyer
c/o 61 State St.
Bangor, Me. 04401

RE: IN THE MATTER OF THE ESTATE OF
JOHN CASSIDY, EDYTHE L. RICE DYER
73-1753

Dear Mrs. Dyer:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari and for other relief is denied.

Very truly yours,

MICHAEL RODAK, JR., Clerk
By

Helen Taylor, (Mrs.)
Assistant Clerk

Received :-
Oct. 18, 1974

Arthur B. LaFrance, Esq.
246 Deering Ave.
Portland, Me. 04102

SUPREME COURT OF THE UNITED STATES

OFFICE OF THE CLERK

WASHINGTON, D.C. 20543

October 25, 1974

Mrs. Edythe L. R. Dyer
c/o 61 State Street
Bangor, Maine

Re: In the Matter of the
Estate of John Cassidy,
Edythe L. Rice Dyer
No. 73-1753

Dear Mrs. Dyer:

You have 25 days from the date of this Court's denial of your petition in which to file a petition for rehearing.

I direct your attention to Rule 58 and also advise that forty (40) printed copies of the petition for rehearing must be filed.

Very truly yours,

MICHAEL RODAK, JR., Clerk

By

E. C. Schade
Assistant

ECS/th